

UNITED STATES DISTRICT COURT OF THE
SOUTHERN DISTRICT OF NEW YORK

-----X : Civil Action No. 1:18-CV-12121
RL 900 PARK LLC, A Florida limited liability Company, :

Plaintiff, :

- against - :

SIMONE ENDER, INDIVIDUALLY AND AS THE :
EXECUTOR OF THE ESTATE OF PAUL ANTHONY :
ENDER; MONIQUE ENDER SILBERMAN; BRIGETTE :
LAING; DANUTA MARYIAK, AS GUARDIAN FOR :
EMELYE ENDER; JACK MANN; JOAN MANN; :
BOARD OF MANAGERS OF THE PARK 900 :
CONDOMINIUM; NEW YORK CITY DEPARTMENT :
OF FINANCE; UNKNOWN TENANT IN POSSESSION :
#1; and UNKNOWN TENANT IN POSSESSION #2, :

Defendants. :

-----X :

AFFIDAVIT OF ARTHUR SPITZER

Jersey
STATE OF NEW YORK)
Ocean ss:
COUNTY OF ~~KINGS~~)

ARTHUR SPITZER, duly affirms and says:

1. I am the sole member of non-party Central Park Partners NY LLC, and as such, am fully familiar with the facts and circumstances of this case to the extent asserted herein.
2. I submit this affidavit in support of its motion to dismiss, or in the alternative, to intervene in this action in order raise defenses in the underlying proceeding.
3. As more fully illustrated in my attorney's Memorandum of Law, this action should be dismissed as a matter of law based upon Plaintiff's failure to properly file a lis pendens against the Property in order to adequately provide notice of this action. Alternatively,

Central Park seeks to intervene in this action in order to preserve its rights in the foreclosure and defend itself in accordance with applicable laws.

4. Central Park is the current owner of the property located at 900 Park Avenue, Unit 6A, New York New York 10075 bearing Block: 1491; Lot: 1061, (the "Property").

5. Central Park obtained interest in the Property by Deed dated March 3, 2020 and recorded with the City Register of New York on April 3, 2020 in CRFN: 2020000116374. *See Exhibit C*

6. At the time that I, through my entity, took over the Property there was no Lis Pendens filed against the Property to foreclose on a mortgage subject to this action.

7. The Lis Pendens did not come up on the title report I ordered prior to purchasing the Property.

8. Plaintiff is requesting nearly \$2,000,000.00 on this loan, the legal fees requested alone is \$140,000.00. When I reviewed the title report, I saw that there was an open mortgage of \$1,500,000.00. I took title to the Property subject to the open mortgage but not subject to a pending foreclosure action, especially an action that is in Federal Court since 2018. I was not prepared to have to hire legal counsel and incur legal fees on a foreclosure action in which I was not a party to and having to step into the "shoes" of a defaulting defendant.

9. I respectfully request that this action is dismissed as I am gravely prejudiced by it and the amount of arrears (default interest, legal fees, and misc. fees) that is being claimed additionally by Plaintiff in its proposed judgment.


10. Being that this is also in the midst of a pandemic, I am not confident in this real estate market as it currently stands and paying off the lender in full. This is a separate concern that I am requesting the court to entertain as foreclosure is an equitable remedy, and as a matter

of equity, I am greatly prejudiced to be facing a judgment against a Property I just acquired, which based on title review was supposed free of any pending lawsuit when I acquired the property.

11. For this reason, this action should be dismissed as my rights as a third-party purchaser has been prejudiced by this foreclosure action.

12. In light of this clear discrepancy, and those more particular described in the accompanying memorandum of law, this action should be dismissed as a matter of law.

WHEREFORE, it is respectfully requested that this Court dismiss this action, and grant such other and further relief as this Court deems just and proper.



ARTHUR SPITZER, as sole member of
Central Park Partners NY LLC

Sworn to before me on this
24th day of June, 2020



Notary Public

JOSHUA FELDBERGER
NOTARY PUBLIC OF NEW JERSEY
My Commission Expires 4/27/2023